IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KATHLEEN G. TETI and ANTHONY G. TETI, Plaintiffs,	:	CIVIL ACTION
v.	:	NO. 01-1720
VILLANOVA UNIVERSITY, VILLANOVA UNIVERSITY SCHOOL OF LAW, REVEREND EDMUND J. DOBBIN, DEAN MARK SARGENT, JOHN DOE and RICHARD ROE, Defendants.	:	

MEMORANDUM

BUCKWALTER, J. January 22, 2003

Presently before the Court are Defendants Villanova University's, Villanova University School of Law's, Reverend Edmund J. Dobbin's, Dean Mark Sargent's, John Doe's and Richard Roe's Motion for Summary Judgment, Plaintiffs Kathleen Teti's and Anthony Teti's Response to Defendants' Motion and Defendants' Reply thereto. For the reasons set forth below, Defendants' Motion is **GRANTED**.

I. BACKGROUND

Plaintiffs Kathleen Teti ("Kathleen") and Anthony Teti ("Anthony", collectively "Plaintiffs") filed this action as pro se litigants against Villanova University ("Villanova"), Villanova University School of Law ("Law School"), Reverend Edmund Dobbin ("Dobbin")[1],

1. Dobbin in the President of Villanova.

Dean Mark Sargent ("Sargent"),[2] Emergency Medical Services of Villanova ("EMS"), John Doe ("Doe") and Richard Roe ("Roe")[3] alleging violations of the Americans with Disabilities Act ("ADA"). Pls.' Am. Compl. at Count I. Plaintiffs also brought state law claims of negligence and fraud, and Anthony brought a loss of consortium claim against Defendants. Pls.' Am. Compl. at Counts II - IV. Plaintiffs' state law claims were all dismissed by Order of this Court on October 24, 2001, leaving Plaintiffs' ADA claim as the only remaining claim which is subject to Defendants' Motion for Summary Judgment. Teti v. Villanova Univ., No. 01-1720, 2001 U.S. Dist. LEXIS 17004 (E.D. Pa. Oct. 24, 2001) (Buckwalter, J.).

Plaintiffs filed this suit following an alleged injury suffered by Kathleen during a visit to the Law School's Library ("Law Library") on October 11, 2000. Pls.' Am. Compl. at ¶ 11. Upon arrival at the Law Library, Plaintiffs allege that Anthony dropped off Kathleen at the front door before going around to the back of the building to park in a handicap space.[4] Pls.' Am. Compl. at ¶ 12. Once inside, Plaintiffs needed to use the copy machine which was located on the lower level of the Law Library. Pls.' Am. Compl. at ¶ 14. After walking downstairs, Plaintiffs discovered that they needed a copy card, which could only be obtained in an office on the upper level. Pls.' Am. Compl. at ¶ 16. Plaintiffs allege that they made two trips to the copy card office from the copy machine before successfully copying their material. In exiting the building, Plaintiffs walked back upstairs and out the main entrance of the Law School. Pls.' Am.

2. Sargent is the Dean of the Law School.

3. Doe and Roe are unknown individuals who have yet to be named or otherwise identified by Plaintiffs.

4. Plaintiffs claim there was no handicap parking available for Law School visitors in the front of the building, so they were forced to park around back. Pls.' Am. Compl. at ¶ 12. Defendants allege, however, that there were two spaces marked for handicapped visitors in the front of the building, as well as several more spaces behind the building. Defs.' Mot. Summ. J. at ¶ 19.

Compl. at ¶ 18. Plaintiffs allege that they were forced to use the stairs each time they traveled from the upper level to the lower level of the building, because the elevator was locked and they were not given a key. Pls.' Resp. to Defs.' Mot. Summ. J. at ¶ 14. As a result of using the stairs, Kathleen alleges severe pain in her knee, back and arm.[5] Pls.' Am. Compl. at ¶ 24.

II. STANDARD OF REVIEW

A motion for summary judgment will be granted where all of the evidence demonstrates "that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). Since a grant of summary judgment will deny a party its chance in court, all inferences must be drawn in the light most favorable to the party opposing the motion. U.S. v. Diebold, Inc., 369 U.S. 654, 655 (1962).

The ultimate question in determining whether a motion for summary judgment should be granted, is "whether reasonable minds may differ as to the verdict." Schoonejongen v. Curtiss-Wright Corp., 143 F.3d 120, 129 (3d Cir. 1998). "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment." Anderson, 477 U.S. at 248.

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5. Plaintiffs failed to plead any incident in the Amended Complaint which could have caused these injuries as a result of their visit to the Law Library. It was only through Defendants' Motion for Summary Judgment and Plaintiffs' Response to this Motion that it was made known that Kathleen claims she fell in a poorly lit stairwell of the Law Library. Furthermore, according to Defendants and reports from Villanova police and EMS, Kathleen originally reported that she had fallen outside of her car, and not in the building. Defs.' Mot. Summ. J. Ex. G-J. It was only in her Response to Defendants' Motion that Kathleen denied telling police and EMS that she had fallen at her car rather than in the stairwell of the Law Library. Pls.' Resp. to Defs.' Mot. Summ. J. at ¶¶ 10-11.

III. DISCUSSION

In their Amended Complaint, Plaintiffs allege a violation of Kathleen's rights under Title III of the ADA based upon Kathleen's claim that she fell in a dimly lit stairwell in the Law School. Under Title III, a place of public accommodation may not discriminate against individuals with disabilities by denying them participation in, providing an unequal benefit to, or a separate benefit from, the goods, services, facilities, privileges, advantages or accommodations afforded to other individuals. 42 U.S.C. § 12182(a) and (b) (2002). In order to establish such a claim under the ADA, Plaintiffs would have to show that the cause of Kathleen's injuries was a result of Defendants' failure to accommodate Kathleen as a disabled person. To do so, Plaintiffs must produce sufficient evidence to establish that the incident occurred in the stairwell of the Law Library rather than in the parking lot outside the building while Kathleen was exiting her vehicle. This is important since the former cause potentially could result in liability to Defendants, because they would be responsible for bringing the Law School and Law Library in accordance with the provisions of Title III of the ADA; whereas the latter would result in Defendants being vindicated from liability, because Defendants have no control over Kathleen's ability to exit her car without incident.

In their Amended Complaint, Plaintiffs do not even mention that Kathleen fell while visiting the Law Library. It is only in Plaintiffs' Original Complaint and in their Response to Defendants' Motion for Summary Judgment that they discussed the incident which allegedly caused Kathleen's injuries. In these documents, Plaintiffs state that Kathleen fell while walking down the stairs in a dimly lit stairwell of the Law Library. Pls.' Compl. at ¶¶ 19-20; Pls.' Resp. to Defs.' Mot. Summ. J. at ¶¶ 10-11. However, in Defendants' Motion for Summary Judgment,

Defendants indicate that Kathleen originally claimed to have fallen while she was exiting her car in the parking lot outside of the Law School. Defs.' Mot. Summ. J. at ¶ 10. Defendants attached two reports from Villanova police and one report from EMS, all of which state that Kathleen told the officers and EMS that she fell while exiting her vehicle. Defs.' Mot. Summ. J. Ex. G-J. Plaintiff has offered no evidence to support her claim and to refute Defendants' contention.[6]

The granting of a motion for summary judgment is only appropriate where a material fact exists such that no reasonable jury could find for the nonmoving party. Anderson, 477 U.S. at 248. Without evidence to support Kathleen's most recent claim as to the cause of her injuries, a reasonable jury could not find for Plaintiffs in this case. No genuine issue of material fact exists from the evidence this Court is to consider in making its determination. Accordingly, Defendants' Motion must be granted.

Supposing that there was sufficient evidence for a jury to find that Kathleen fell in the stairwell of the Law Library rather than in the parking lot out front, Defendants' Motion must still be granted, because Plaintiffs have not sufficiently alleged that Kathleen is disabled. To qualify as disabled under the ADA, a claimant must initially prove that she has a "physical or mental impairment that substantially limits one or more of the major life activities of such individual." 42 U.S.C. § 12102(2); see also Toyota Motor Mfg., Ky., Inc. v. Williams, 534 U.S. 184, 194-95 (2002). Major life activities include significant tasks such as walking, seeing, hearing, speaking, breathing, working or caring for oneself. Lanni v. City of Philadelphia, No.

6. Plaintiffs utilize a significant portion of their Response to Defendants' Motion for Summary Judgment to criticize attorneys and the legal profession as a whole. Pls.' Resp. to Defs.' Mot. Summ. J. at ¶¶ 1, 11, 23-25. Given that Plaintiffs have filed numerous pro se claims in the past, they should know that such superfluous language does not aid in their argument. Plaintiffs even suggest that Kathleen babysat the Buckwalter children. Pls.' Resp. to Defs.' Mot. Summ. J. at ¶ 1. If Kathleen did in fact babysit children with the last name of Buckwalter, such children have no relationship to the undersigned.

01-4726, 2002 U.S. Dist. LEXIS 9664, at *4 (E.D. Pa. May 30, 2002). The alleged disability must be a significant impediment upon one's lifestyle and not merely an inconvenience she may encounter in performing daily functions. In a motion for summary judgment, the court need only decide whether, taking all the evidence in the light most favorable to the plaintiff, a reasonable jury could conclude that the plaintiff is disabled. EEOC v. Sears, 233 F.3d 432, 438 (7th Cir. 2000).

Kathleen walked up and down the exact set of stairs she claims were the scene of her accident several times before she allegedly fell. Pls.' Am. Compl. at ¶ 18. In fact, when she came back to the Law School several months after her alleged accident, to take pictures of the scene, she again used the stairs, despite an officer's offer to escort her onto the elevator in the Law School. Pls.' Resp. to Defs.' Mot. Summ. J. at ¶ 11; Defs.' Mot. Summ. J. at ¶ 11. If she were truly unable to use the stairs, Kathleen would have made a greater effort to obtain access to the elevator, or she would have asked her husband to photocopy the material they needed while she waited on the upper level.[7] It is clear that Kathleen's alleged disability did not impair her ability to use stairs. Given all the evidence, a reasonable jury could not find that Kathleen is disabled pursuant to the ADA's definition of such. As Kathleen is not disabled, she cannot recover under Title III of the ADA.

7. Plaintiffs admit that Kathleen's alleged "disability is only minor to this case at this point." Pls.' Resp. to Defs.' Mot. Summ. J. at ¶ 23. Plaintiffs state that they are attempting to vindicate the rights of all individuals with disabilities, rather than to remedy any alleged injury to Kathleen. Pls.' Resp. to Defs.' Mot. Summ. J. at ¶¶ 4-5. Plaintiffs have no standing to make such a claim, and cannot properly use this forum to attempt to right all wrongs against individuals with disabilities.

IV. CONCLUSION

For the foregoing reasons, Defendants' Motion for Summary Judgment is granted. An appropriate Order follows.

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Plaintiffs,	:	CIVIL ACTION
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Defendants.	:	

ORDER

AND NOW, this 22nd day of January, 2003, upon consideration of Defendants Villanova University's, Villanova University School of Law's, Reverend Edmund J. Dobbin's, Dean Mark Sargent's, John Doe's and Richard Roe's Motion for Summary Judgment (Docket No. 25), Plaintiffs Kathleen Teti's and Anthony Teti's Response to Defendants' Motion (Docket No. 28) and Defendants' Reply thereto (Docket No. 29), it is hereby **ORDERED** that Defendants' Motion for Summary Judgment is **GRANTED**. Judgment is entered in favor of Defendants Villanova University, Villanova University School of Law, Reverend Edmund J. Dobbin, Dean Mark Sargent, John Doe and Richard Roe and against Plaintiffs Anthony Teti and Kathleen Teti.

This case is **CLOSED**.

BY THE COURT:

RONALD L. BUCKWALTER, J.